

REMARKS

I. Status Of The Claims

Claims 1-32 are pending in this application, of which claims 1-28 and 32 are withdrawn from consideration.

Claims 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Feinleib (U.S. Patent Application Publication No. 2005/0028195).

Claim 29 is independent.

II. Restriction Requirement

On June 17, 2005, Peter N. Fill (Registration No. 38,876) received a telephone call from the Examiner indicating that the case was subject to a restriction requirement. The Examiner indicated that restriction to one of:

“Group I: Claims 1-8 (Class 713/Sub-class 171)”;
“Group II: Claims 9-12 (Class 725/Sub-class 86)”;
“Group III: Claims 13, 14, and 32 (Class 725/Sub-class 95);
“Group IV: Claims 15-19 (Class 725/Sub-class 81)”;
“Group V: Claims 20-24 (Class 725/Sub-class 15)”;
“Group VI: Claims 25-28 (Class 725/Sub-class 44)”;
“Group VII: Claims 29-31 (Class 370/Sub-class 345)”

was required.

On June 22, 2005, the undersigned telephoned the Examiner and, during the call, indicated provisional election with traverse of “Group VII: Claims 29-31 (Class 370/Sub-class 345)”.

Applicants hereby affirm this provisional election, but reiterate that the election was made with traverse.

Applicants observe that, as stated in MPEP §803, for a restriction requirement to be proper “there are two criteria for restriction between patentably distinct inventions” as follows:

“(1) The inventions must be independent or distinct as claimed; and

(2) There must be a serious burden on the examiner if restriction is not required . . .”
(emphasis added).

Applicants respectfully submit that all groups of restricted claims are properly presented in the same application, that undue diverse searching would not be required, and that all claims should be examined together. Accordingly, examination of the claims of Groups I-VI, in addition to the claims of Group VII, would place no additional “serious” burden on the Examiner, as examination of the claims of Groups I-VI would not require undue diverse searching beyond that which would be necessary for examination of the claims of Group VII. For at least these reasons, Applicants respectfully submit that the restriction requirement should be withdrawn and that all claims should be examined on the merits.

III. Rejection of Independent Claim 29 Under 35 U.S.C. 102(e)

The Office Action rejects independent claim 29 under 35 U.S.C. 102(e) as being anticipated by Feinleib.

However, Applicants respectfully submit that Feinleib fails, for example, to disclose, teach, or suggest:

“... one or more global caster modules for receiving content meant for distribution to all locations in a network; [and]

one or more local caster modules for receiving content meant

for distribution to only certain locations in said network ...”

as set forth in the claim (emphasis added).

The Office Action, apparently equating the “content meant for distribution to all locations” of claim 29 with the “streaming content” of Feinleib, and the “content meant for distribution to only certain locations” of claim 29 with the “enhancing content” of Feinleib, argues that the above-identified aspects of claim 29 are disclosed among paragraphs [0023], [0026]-[0028], and Fig. 1 of Feinleib.

However, Applicants respectfully submit that Feinleib fails, for instance, to disclose, teach, or suggest the “streaming content” as being meant for distribution to all locations, and the “enhancing content” as being meant for distribution to only certain locations, and instead discusses the “streaming content” and the “enhancing content” as being meant for the same clients.

For example, at paragraph [0031] Feinleib indicates that the “enhancing content” is sent to the same “clients” as the “streaming content” so as to “enhance the streaming content”:

“[t]he primary content provider 22(1) has an enhancing content server 36 to serve supplemental or enhancing content to the clients in order to enhance the streaming content served by the streaming content server 34”
(emphasis added).

As another example, at paragraph [0037] Feinleib states that:

“[t]he content providers serve both streaming content and enhancing content to the clients”
(emphasis added).

As a further example, at paragraph [0077] Feinleib states that:

“[a]t step 100, the client receives streaming and enhancing content from one or more content providers”
(emphasis added).

In view of at least the forgoing, Applicants respectfully submit that claim 29, as well as those claims that depend therefrom, are in condition for allowance.

Further, Applicants respectfully disagree with the Office Action's apparent characterization of the disclosure of the present application as indicating the "content meant for distribution to only certain locations in said network" as set forth in claim 29 to be equivalent to the "enhancing content" of Feinleib.

IV. Dependent Claim Rejections

Applicants do not believe it is necessary at this time to further address the rejections of the dependent claims as Applicants believe that the foregoing places the independent claims in condition for allowance. Applicants, however, reserve the right to further address those rejections in the future should such a response be deemed necessary and appropriate.

CONCLUSION

Applicants respectfully submit that this application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No.

4208-4026. **A DUPLICATE OF THIS DOCUMENT IS ATTACHED.**

Furthermore, in the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-noted Deposit Account and Order No.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: October 13, 2005

By:

A handwritten signature in dark ink, appearing to read 'A. R. Gill', is written over a horizontal line.

Angus R. Gill
Registration No. 51,133

Mailing Address:
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, New York 10281-2101
(212) 415-8746
(212) 415-8701 (Fax)